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EXAMINER

DASS, HARISH T

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/842,177

Applicant(s)

HOLDEN ET AL.

Examiner

Harish T. Dass

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-20 and 22-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breen, Jr. et al (hereinafter Breen – US 6,598,027) in view of Harrington et al (hereinafter Harrington - US 6,161,099), Ebay.com and Naor et al (hereinafter Naor - US 6,834,272).

Re. Claim 1, Breen discloses a system and method comprising: an auction site (Figures 1, 11) for conducting and facilitating transactions in a selected industry, the auction site connected to a global computer network (Fig. 1 # 20) and accessible via a standard Web browser (Fig. 10A - Netscape/Explorer), wherein the auction site enables private auctions [C5 L25-L32; C6 L55-L65],

a pre-qualifier (see Fig. 10B , if you do not qualify ..., Fig. 10E #4) for pre-qualifying users, wherein after successful pre-qualification, a user is granted access (see Fig. 2 # 140 - agreement) to a private auction on the auction site [Figures 2, 10E; C10 L4-L5 - (means seller is checked for pre-qualification or pre-authorized to enlist)],

an auction representative interface for: (1) posting an auction to the auction site (Fig. 12A) by an authorized auction representative [C9 L66 to C10 L15], (2) creating users and (3) managing users [C13 L40-L67], and a user interface for: (1) selecting an auction on the auction site (see Fig. 11 icons - choose an option) [C5 L1-L35; C10 L1-L15], where a list of auctions from which a user selects an auction comprises auctions to which the user has been invited [C2 L3-L17], (2) bidding for an item in a selected auction, wherein a bid is valid if it meets a predetermined criteria (see fig. 12D) [C2 L10-L17], the predetermined criteria comprising a determination of whether (a) the bid is made within a selected time interval (see Fig. 18A #1330i, j and Fig. 18I - restrictions) [Fig. 13B, 18A-I; C2 L10-L17], (c) the bidding user is authorized, and wherein only valid bids are accepted by the auction site [Figure 12D; C11 L32-L51], (4) enabling a first user to "auto bid" during an auction, where an auto bid (see C4 L13 - automatic bidding) allows the first user to specify a maximum bid (Fig. 15 #1206a) above a current bid, and increases the first user's bid by a pre-specified minimum (Fig. 15 # 1206b) bid up to the specified maximum bid when a second user outbids the first user [Fig, 15A-16B; C4 L12-L16; C18 L22-35; C21 L28-L45], and

wherein, if presented in the user interface, time of day information is presented in a user's local time zone [see Fig. 12A - 6:00 AM EST of your start date ...],

Breen does not explicitly disclose initiating invitations to users to join a scheduled auction, a message notifying delivery component for automatically sending electronic messages to users, the electronic messages notifying the users of information specific to an auction, a numerical difference between the bid and a current winning bid is

greater than a selected threshold, and (3) viewing previous bids in a selected auction, where for a viewed bid, information used to identify the user who placed the viewed bid remains hidden to other users, but is open to authorized auction representative personnel, and.

However, Harrington et al (hereinafter Harrington - US 6,161,099) discloses solicit (see C2 L66, C6 L37) to users to join a scheduled auction, a message notifying delivery component for automatically sending electronic messages to users, the electronic messages notifying (see C12 L37-L38 - e-mail; C5 L14-L22 broadcast or otherwise) the users of information specific to an auction [abstract; C2 L64-L67; C5 L25-L35; C6 L37-L41; C7 L36-L67; C12 L37-L45; Figure 5; C7 L36-L40] to inform the bidders of upcoming auction and the start time with EDT time zone.

Ebay.com discloses (b) a numerical difference between the bid and a current winning bid is greater than a selected threshold, and (3) viewing previous bids in a selected auction, where for a viewed bid, information used to identify the user who placed the viewed bid remains hidden to other users, but is open to authorized auction representative personnel [see ebay.com web page 1995-1999] to provide tips to bidder to outbid new bid.

Naor discloses initiating invitations [C1 L39-L63; C8 L6-L18; C9 L17-31] to allow the auctioneer to promote the auction using a advertising.

Further, it is well known to MS Windows (95, and 98) users that time of day information is presented in a user's local time zone, which is located at the lower right

corner of the screen, similarly, it is obvious to TV Nightly News viewer (ABC, CNN, BBC, etc.) the time displayed are local time.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Breen and include initiating invitations to users to join a scheduled auction, a message notifying delivery component for automatically sending electronic messages to users, the electronic messages notifying the users of information specific to an auction, a numerical difference between the bid and a current winning bid is greater than a selected threshold, and viewing previous bids in a selected auction, where for a viewed bid, information used to identify the user who placed the viewed bid remains hidden to other users, but is open to authorized auction representative personnel, and enabling a first user to "auto bid" during an auction, where an auto bid allows the first user to specify a maximum bid above a current bid, and increases the first user's bid by a pre-specified minimum bid up to the specified maximum bid when a second user outbids the first user, as taught by Harrington, Naor and Ebay to inform the bidders of upcoming auction and the starting date/time and bidder tips how to bid in auction for the winning bids.

Re. Claim 2, Breen further discloses wherein the user is pre-qualified and created as a user in the auction site prior to being selected as a bidder (see Fig. 10B , if you do not qualify ..., Fig. 10E #4) and Harrington further discloses wherein the message notifying delivery component automatically sends an invitation to a user who has been selected as a bidder for an auction (see C12 L37-L38 - e-mail) to solicit bid for upcoming events.

Re. Claims 3-4, Breen does not explicitly disclose wherein the message notifying delivery component automatically sends a reminder to selected bidders for an auction at a pre-determined time prior to the auction open time and wherein the message notifying delivery component automatically sends a notice to a first bidder when the first bidder is outbid by a second bidder. However, these step are well known. For example, Microsoft Windows NT's Outlook automatically reminds the appointments, meeting or events before the upcoming event, Quicken 98 has a bill reminder to alert the user to pay its bill and Doctor's office remind the patients of their next day appointment, and similarly, Ebay continuously show the last bid which informs (alerts) the other bidders that they are out-bidder and they can take action.

Re. Claims 5-6, Breen discloses wherein the message notifying delivery component automatically sends a message to winning bidders, notifying the winning bidders of the winning bids and wherein the message notifying delivery component automatically sends a message to losing bidders, notifying the losing bidders of the losing bids [C4 L5-L7; C18 L15-19].

Re. Claims 7-8, Breen discloses wherein an auction representative posts the auction via the auction representative interface and the message notifying delivery component automatically sends a message to the posting auction representative identifying winning bidders and wherein an auction is created with a review feature, the review feature

causing a review delay requiring interaction and review by an auction representative before the message notifying delivery component automatically sends a message to bidders with a status notification indicating whether a bidder has won or lost a bid [C32 L3-L4; C10 L63-L67].

Re. Claim 9, Breen discloses wherein a user is presented with a selection of auctions for which the user is authorized and unauthorized auctions are not viewable by the user, and wherein the user is identified by a username and password to determine authorization levels [Figure 13A].

Re. Claim 10, Breen discloses where a plurality of auctions are created for the auction site, the plurality of auctions being segregated into distinct groups (see C2 L66 - agricultural growers; C8 table), wherein a user has access to all auctions in an authorized group [Figure 13A].

Re. Claim 11, Breen discloses wherein a modifiable profile corresponds to each user, the user being capable of modifying the corresponding profile via the user interface [Fig. 10E (see update your information), Fig 12A see reset button].

Re. Claim 12, Breen discloses wherein the modifiable user profile identifies a default time zone for the corresponding user [Figure 10F (see Zone Form and Zone list)].



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Re. Claim 13, Breen discloses wherein a set of desired electronic messages is selected by a user via the modifiable user profile [C3 L62-L67].

Re. Claim 14, Harrington further discloses wherein a history of winning and losing bids by a user is viewable to the bidding user via the user interface [Fig. 6; C7 L50-L51] to display auction results.

Re. Claim 15, Breen discloses wherein the user interface allows a user to search the auction site for a selected auction (Fig. 10 C - market place; Fig. 11 icons).

Re. Claim 16, Breen discloses wherein search criteria for the auction search comprises at least one item selected from the group consisting of: auction name, item name, open time, close time, auction id, item id, and auction quantity [C19 L33-L41].

Re. Claim 17, Breen discloses wherein bids identical in price are ranked first based on quantity (see Fig. 18A). Breen does not explicitly disclose then on time. However, sorting function of the database is well known. It would have been obvious to one of ordinary skill in the art at the time the Applicant's invention was made to modify disclosures Breen and include bidding time which allows the bidder to bid on their convenience.

Re. Claim 18, Breen discloses wherein the user interface presents a list of bids for an auction at a user selectable refresh rate [Figure 12A - see refresh button].

Re. Claim 19, Breen discloses wherein a user with a winning bid selects a location from which to ship the auctioned item [C8 L19-L30].

Re. Claim 20, Breen discloses wherein an auction is created with a start time and an end time, the end time being automatically extended by a pre-determined amount of time when a user places a valid bid within a pre-determined amount of time immediately prior to the scheduled end time [Fig. 13B; C17 L9-L10 - see 1066f, 1066g].

Re. Claim 22, Breen discloses a system and method comprising: posting (Fig. 12A), by an authorized user (auction representative) [C9 L66 to C10 L15], an auction to an auction site (Figures 1, 11) for conducting and facilitating transactions in a selected industry, the auction site connected to a global computer network (Fig. 1 # 20) and accessible via a standard Web browser, wherein the auction site enables private auctions, and wherein posting further comprises scheduling the auction [C5 L25-L32; C6 L55-L65],

creating users, by an auction representative, on the auction site, each user being a member of at least one group, wherein each group has access to at least one selected auction, and wherein a user has access to auctions associated with a user's group, but does not have access to auctions not associated with the user's group (see

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Fig. 2 # 140 - agreement), and wherein users are for pre-qualified before being granted access to a private auction on the auction site [Figures 2, 10E; C10 L4-L5 - (means seller is checked for pre-qualification or pre-authorized to enlist)],

wherein time of day information in the message is presented in a user's local time zone [see Fig. 12A - 6:00 AM EST of your start date ...].

selecting an auction on the auction site, by a bidding user (bidder) (see Fig. 11 icons - choose an option) [C5 L1-L35; C10 L1-L15] where a list of auctions from which the bidder selects an auction comprises auctions to which the bidder has been invited and granted access [C2 L3-L17],

bidding for an item in a selected auction, by a bidder, wherein a bid is valid if it meets a pre-determined criteria (see fig. 12D) [C2 L10-L17], the predetermined criteria comprising a determination of whether (a) the bid is made within a selected time interval (see Fig. 18A #1330i, j and Fig. 18I - restrictions) [Fig. 13B, 18A-I; C2 L10-L17], and (c) the bidding user is authorized, and wherein only valid bids are accepted by the auction site [Figure 12D; C11 L32-L51], and

enabling a first bidder to "auto bid" during an auction, where an auto bid allows the first bidder to specify a maximum bid (Fig. 15 #1206a) above a current bid, and increases the first bidder's bid by a pre-specified minimum bid (Fig. 15 # 1206b) up to the specified maximum bid when a second bidder outbids the first bidder [Fig. 15A-16B; C4 L12-L16; C18 L22-35; C21 L28-L45], wherein, if presented to a bidder, time of day information is presented in the bidder's local time zone [see Fig. 12A - 6:00 AM EST of your start date ...].

Breen does not explicitly disclose managing users, by an auction representative, for adding, modifying and deleting users from the auction site and selected auctions. This step is known to computer programmers and users of Unix and Windows NT, where system administrator assigns a group and group permission that the user can access only programs, files or data that they have permission to secure data from unauthorized access. For example, a group of licensed veterinarians can buy certain chemical they are authorized by system administrator to access chemical not any one else.

Breen further does not disclose solicit to users to join a scheduled auction and automatically notifying users of auction events by sending electronic messages to the appropriate users. However, Harrington discloses this step [abstract; C2 L64-L67; C5 L14-L35; C6 L37-L41; C7 L36-L67; C12 L37-L45 - see email, broadcast or otherwise] to inform the bidders of upcoming auction and the start time with EDT time zone.

Breen further does not disclose (b) a numerical difference between the bid and a current winning bid is greater than a selected threshold viewing previous bids in a selected auction, where for a viewed bid, information used to identity a bidder who placed the viewed bid remains hidden to other bidders, but is open to authorized auction representatives. However Ebay.com discloses these steps [see ebay.com web page 1995-1999] to provide tips to bidder to outbid new bid. Naor discloses initiating invitations [C1 L39-L63; C8 L6-L18; C9 L17-31] to allow the auctioneer to promote the auction using a advertising.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Breen and include initiating invitations to users to join a scheduled auction, a message notifying delivery component for automatically sending electronic messages to users, the electronic messages notifying the users of information specific to an auction, a numerical difference between the bid and a current winning bid is greater than a selected threshold, and viewing previous bids in a selected auction, where for a viewed bid, information used to identify the user who placed the viewed bid remains hidden to other users, but is open to authorized auction representative personnel, and enabling a first user to "auto bid" during an auction, where an auto bid allows the first user to specify a maximum bid above a current bid, and increases the first user's bid by a pre-specified minimum bid up to the specified maximum bid when a second user outbids the first user, as taught by Harrington, Naor and Ebay to inform the bidders of upcoming auction and the starting date/time and bidder tips how to bid in auction for the winning bids.

Re. Claim 23, system claim 23 is rejected with same rational as claim 2.

Re. Claims 24-25, system claims 24-25 are rejected with same rational as claims 3-4.

Re. Claims 26-27, system claims 26-27 are rejected with same rational as claims 5-6.

Re. Claims 28-29, system claims 28-29 are rejected with same rational as claims 7-8.

Re. Claim 30, system claim 30 is rejected with same rational as claim 9.

Re. Claim 31, system claim 31 is rejected with same rational as claim 10.

Re. Claim 32, system claim 32 is rejected with same rational as claim 11.

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Re. Claim 33, system claim 33 is rejected with same rational as claim 12.

Re. Claim 34, system claim 34 is rejected with same rational as claim 13.

Re. Claim 35, system claim 35 is rejected with same rational as claim 14.

Re. Claim 36, system claim 36 is rejected with same rational as claim 15.

Re. Claim 37, system claim 37 is rejected with same rational as claim 16.

Re. Claim 38, system claim 38 is rejected with same rational as claim 17.

Re. Claim 39, system claim 39 is rejected with same rational as claim 18.

Re. Claim 40, system claim 40 is rejected with same rational as claim 19.

Re. Claim 41, system claim 41 is rejected with same rational as claim 20.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Breen in view of Harrington and Naor.

Re. Claim 21, Breen discloses a system and method comprising:

posting, by an authorized user (auction representative), an auction to an auction site for conducting and facilitating transactions in a selected industry, the auction site connected to a global computer network and accessible via a standard Web browser, wherein the auction site enables private auctions, and wherein posting further comprises scheduling the auction [see claim 1];

creating users, by an auction representative, on the auction site, each user being a member of at least one group (agricultural growers), wherein each group has access to at least one selected auction (Fig. 10 C - market place & profile), and wherein a user

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has access to auctions associated with a user's group (see Fig. 2 # 140 - agreement), , and wherein users are for pre-qualified before being granted access to a private auction on the auction site [Figures 2, 10E; C10 L4-L5 - (means seller is checked for pre-qualification or pre-authorized to enlist)],

wherein time of day information in the message is presented in a user's local time zone [see Fig. 12A - 6:00 AM EST of your start date ...].

Breen does not explicitly disclose, but does not have access to auctions not associated with the user's group and managing users, by an auction representative, for adding, modifying and deleting users from the auction site and selected auctions. However, these steps are known to computer programmers and users of Unix and Windows NT, where system administrator assigns a group and group permission that the user can access only programs, files or data that they have permission to secure data from unauthorized access. For example, a group of licensed veterinarians can buy certain chemical they are authorized by system administrator to access chemical not any one else.

Breen further does not disclose solicit to users to join a scheduled auction and automatically notifying users of auction events by sending electronic messages to the appropriate users. However, Harrington discloses this step [see C12 L37-L38 - e-mail; C5 L14-L22 broadcast or otherwise] to inform the bidders of upcoming auction and the start time with EDT time zone. Naor discloses initiating invitations [C1 L39-L63; C8 L6-L18; C9 L17-31] to allow the auctioneer to promote the auction using a advertising.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the disclosure of Breen and include disclosing initiating invitations to users to join a scheduled auction and automatically notifying users of auction events by sending electronic messages to the appropriate users, as disclosed by Harrington and Naor, and group access and group administration to inform the bidders of upcoming auction and prevent unauthorized (unregistered) users to access certain website they do not have license.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harish T. Dass whose telephone number is 571-272-6793. The examiner can normally be reached on 8:00 AM to 4:50 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harish T Dass  
Examiner  
Art Unit 3628

*Harish T Dass*

2/21/06